IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1610 OF 2006

Vijay Chhabildar Modi ...Applicant

V/s

The State of Maharashtra ...Respondent.

Mr. A.P. Mundargi with Mr. Amol Patankar for the applicant.

Ms. M.H Mhatre, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 28th April, 2006

P.C.

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant has an apprehension that he is likely to be arrested in connection with C.R. No.1 of 2006 registered by the State Excise, Boundary Check Post, Kagal, Kolhapur for the offence punishable under sections 2(28), 29, 70, 80, 81, 83 and 90 of the Bombay Prohibition Act.

3. The prosecution case is that on 15/2/2006 one truck was intercepted by Boundary Check Post, Kagal of

Maharashtra State Excise Department and the contents of the truck were inspected and it was alleged that the truck contained black jaggery and molasses weighing 16.200 Metric Tonnes. The prosecution case is that the jaggery and molasses were being transported at the behest of Shri Laxmi Agencies Erode, Tamilnadu and they were being taken to Laxmi Trading at Silvassa. The transporter did not have licence to transport these goods to the State of Maharashtra and, therefore, the driver and the cleaner of the said truck were taken into custody. During the course of interrogation, the driver and the cleaner stated that they were asked to make a telephone call to the present applicant after the truck entered the State of Maharashtra. It is an admitted position that so far as black jaggery and molasses are concerned, they are now included in the schedule of items which are prohibited under the Bombay Prohibition Act and are also the excisable commodities and for the purpose of bringing it in the State of Maharashtra, a licence is required from the appropriate authority. It is also admitted that so far as the State of Tamilnadu is concerned, there is no prohibition for the purchase and sale of the black jaggery and molasses. The goods, therefore, were neither confiscated from the present applicant nor there was any material in the

truck to indicate that the said goods were transported to the present applicant. The documents revealed that the goods were sent from Tamilnadu and were being transported to Silvassa. Thus, there is no material to indicate that the present applicant was in any manner involved save and except the statements of the driver and the cleaner.

4. Under these circumstances, in my view, prima facie case is made out by the applicant for being released on bail in the event of his arrest.

5. The applicant is, therefore, in the event of his arrest in connection with C.R. No.1 of 2006 registered by the State Excise, Boundary Check Post, Kagal, Kolhapur, be released on bail in the sum of Rs 10,000/- with one or two sureties in the like amount.

6. Application is accordingly disposed of.

V.M. KANADE, J.